

**REGULAR MEETING
MAY 17, 2022**

In compliance with Chapter 231, OPEN PUBLIC MEETINGS ACT of the State of New Jersey, adequate notice has been given to all members of the Governing Body, the "Local Source" and the "Westfield Leader" the two newspapers designated to receive such notice. The notice is posted on the Borough Hall bulletin board.

Mayor Paul N. Mirabelli called the meeting to order at 7:35 P.M.

INVOCATION: Councilwoman Pacifico
SALUTE TO THE FLAG
ROLL CALL

PRESENT: Mayor Mirabelli, Councilman Matejek, Councilman Messler, Councilwoman Pacifico, Councilwoman Pater, Administrator Mortimer and Attorney Post. Also present were CFO Jill Goode Senior Coordinator Kim Moriak and Police Chief Joseph Giannuzzi. Council President Andre and Councilman Dierkes were absent.

APPROVAL OF MINUTES:

Upon motion by Councilman Matejek a second by Councilwoman Pacifico, the minutes of the Regular Session Meeting held on April 19, 2022 were approved. Roll Call: Ayes: Matejek, Messler, Pacifico, Pater. Nays: 0.

Upon motion by Councilwoman Pacifico a second by Councilwoman Pater, the minutes of the Work Session Meeting held on May 3, 2022 were approved. Roll Call: Ayes: Matejek, Messler, Pacifico, Pater. Nays: 0.

PROCLAMATION:

WHEREAS, Governor Livingston sponsors a basketball program to provide kids with the opportunity to improve their skills and performances in competition with other schools; and

WHEREAS, the 2021-2022 JV Girls Basketball team, were compromised of freshmen and sophomores; and

WHEREAS, the team finished with a victory over Westfield in the Union County Championships. Thus, bringing their season record to 16-1.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the Governor Livingston JV Girls Basketball team and its coaches are hereby commended for their achievements.

Rob Ritter, Coach
Zach Worswick, Coach
Charlotte Kang, Team Manager

Sophia Erickson
Ava Feinberg
Christina Iossa
Chelsea Kieseewetter
Caroline Donahue
Emily Schmidt

Karolyn Chetirko
Gillian Abbey
Colleen Sheehan
Olivia Corria

ORDINANCE: Second Reading (Public Hearing)

**ORDINANCE 1312-2022
CALENDAR YEAR 2022
ORDINANCE TO ESTABLISH A CAP BANK**

WHEREAS, the Local Government Cap Law, N.J.S. 40A:4-45.1 et.seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said final budget appropriations to 2.50% unless authorized by ordinance to increase it to 3.5% over the previous years final appropriations; and

WHEREAS, a municipality may, by ordinance, bank the difference between its final budget appropriations and the 3.5% increase authorized by this ordinance when said difference is not appropriated as part of the final budget; and

WHEREAS, the Borough Council of the Borough of Mountainside, County of Union, hereby determines that this difference in the amount of \$95,227.79 that is not appropriated as part of the final budget shall be retained as an exception to the final appropriations in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, that any amount authorized herein above that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

Hearing no one wishing to speak, Councilman Messler closed the meeting to the public.

It was moved by Councilman Messler and seconded by Councilwoman Pater that this ordinance be passed on second and final reading and advertised by title only.

Roll Call: Matejek, Messler, Pacifico, Pater. Nays: 0

RESOLUTIONS:

The following resolution was introduced by Councilwoman Pater and seconded by Councilwoman Pacifico.

RESOLUTION 67-2022

GOVERNING BODY CERTIFICATION OF COMPLIANCE WITH THE
UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION'S

“Enforcement Guidance on the Consideration of Arrest and Conviction Records in
Employment Decisions Under Title VII of the Civil Rights Act of 1964”

WHEREAS, N.J.S.A. 40A:4-5 as amended by P.L. 2017, c.183 requires the governing body of each municipality and county to certify that their local unit’s hiring practices comply with the United States Equal Employment Opportunity Commission’s “Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964,” as amended, 42 U.S.C. § 2000e et seq., (April 25, 2012) before submitting its approved annual budget to the Division of Local Government Services in the New Jersey Department of Community Affairs; and

WHEREAS, the members of the governing body have familiarized themselves with the contents of the above-referenced enforcement guidance and with their local unit’s hiring practices as they pertain to the consideration of an individual’s criminal history, as evidenced by the group affidavit form of the governing body attached hereto.

NOW, THEREFORE BE IT RESOLVED, That the Mayor and Council of the Borough of Mountainside, hereby states that it has complied with N.J.S.A. 40A:4-5, as amended by P.L. 2017, c.183, by certifying that the local unit’s hiring practices comply with the above-referenced enforcement guidance and hereby directs the Clerk to cause to be maintained and available for inspection a certified copy of this resolution and the required affidavit to show evidence of said compliance.

Roll Call: Matejek, Messler, Pacifico, Pater. Nays: 0.

Mayor Mirabelli provided a summary of the 2022 proposed municipal budget.

Mayor Mirabelli opened the meeting to anyone wishing to discuss the 2022 municipal budget.

Hearing no one wishing to speak, Councilman Messler closed the meeting to the public.

The following resolution was introduced by Councilwoman Pater and seconded by Councilman Matejek.

RESOLUTION 68-2022

BE IT RESOLVED, by the Mayor and Council of the Borough of Mountainside, County of Union, that the budget herein before set forth is hereby adopted and shall constitute an appropriation for the purposes of the sums therein as set forth as appropriations, and authorization of the amount of \$9,236,481.32 for municipal purposes.

Roll Call: Matejek, Messler, Pacifico, Pater. Nays: 0.

The following resolution was introduced by Councilman Matejek and seconded by Councilman Messler.

RESOLUTION 69-2022

RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF MOUNTAINSIDE, IN THE COUNTY OF UNION, NEW JERSEY, COVENANTING TO COMPLY WITH THE PROVISIONS OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, APPLICABLE TO THE EXCLUSION FROM GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES OF INTEREST ON OBLIGATIONS ISSUED BY THE BOROUGH OF MOUNTAINSIDE, AUTHORIZING THE

MAYOR, BOROUGH CLERK, CHIEF FINANCIAL OFFICER AND OTHER BOROUGH OFFICIALS TO TAKE SUCH ACTION AS THEY MAY DEEM NECESSARY OR ADVISABLE TO EFFECT SUCH COMPLIANCE AND DESIGNATING A \$5,085,000 BOND ANTICIPATION NOTE, DATED APRIL 21, 2022 AND PAYABLE OCTOBER 21, 2022, AS A "QUALIFIED TAX-EXEMPT OBLIGATION" PURSUANT TO SECTION 265(b)(3) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED

WHEREAS, the Borough of Mountainside, in the County of Union, New Jersey (the "Borough"), from time to time issues bonds, notes and other obligations, the interest on which is excluded from gross income for Federal income tax purposes, and desires to take such action as may be necessary or advisable to establish and maintain such exclusion; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), contains provisions with respect to the exclusion from gross income for Federal income tax purposes of interest on obligations, including provisions, among others, that require issuers of tax-exempt obligations, such as the Borough, to account for and rebate certain arbitrage earnings to the United States Treasury and to take such other action to establish and maintain such Federal tax exclusion; and

WHEREAS, the Borough intends to issue a \$5,085,000 bond anticipation note, dated April 21, 2022 and payable October 21, 2022 (the "Note"); and

WHEREAS, the Borough desires to designate the Note as a "qualified tax-exempt obligation" pursuant to Section 265(b)(3) of the Code;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Mountainside, in the County of Union, New Jersey, as follows:

SECTION 1. The Borough Council hereby covenants on behalf of the Borough, to the extent permitted by the Constitution and the laws of the State of New Jersey, to do and perform all acts and things permitted by law and necessary to assure that interest paid on bonds, notes or other obligations of the Borough (including the Note) be and remain excluded from gross income of the owners thereof for Federal income tax purposes pursuant to Section 103 of the Code.

SECTION 2. The Mayor, Borough Clerk, Chief Financial Officer and other officials of the Borough are hereby authorized and directed to take such action, make such representations and give such assurances as they may deem necessary or advisable to effect compliance with the Code.

SECTION 3. The Note is hereby designated as a "qualified tax-exempt obligation" for the purpose of Section 265(b)(3) of the Code.

SECTION 4. It is hereby determined and stated that (1) the Note is not a "private activity bond" as defined in the Code and (2) the Borough and its subordinate entities, if any, do not reasonably anticipate issuing in excess of \$10 million of new money tax-exempt obligations (other than private activity bonds) during the calendar year 2022.

SECTION 5. It is further determined and stated that the Borough has not, as of the date hereof, issued any tax-exempt obligations (other than the Note) during the calendar year 2022.

SECTION 6. The Borough will, to the best of its ability, attempt to comply with respect to the limitations on issuance of tax-exempt obligations pursuant to Section 265(b)(3) of the Code; however, the Borough does not covenant to do so, and hereby expressly states that a covenant is not made hereby.

SECTION 7. The issuing officers of the Borough are hereby authorized to deliver a certified copy of this resolution to the original purchaser of the Note and to further provide such original purchaser with a certificate of obligations issued during the calendar year 2022 dated as of the date of delivery of the Note.

SECTION 8. This resolution shall take effect immediately upon its adoption.

Roll Call: Matejek, Messler, Pacifico, Pater. Nays: 0.

The following resolution was introduced by Councilwoman Pacifico and seconded by Councilwoman Pater.

RESOLUTION 70-2022

WHEREAS, the Recreation Director Frank Masella requested the following refund; and

NOW, THEREFORE, BE IT RESOLVED that the Treasurer be authorized to issue the following refund:

<u>Applicant</u>	<u>Program</u>	<u>Amount</u>
Sue Tracy 1290 Knollwood Road Mountainside, NJ 07092	Pool Membership	\$127.00

Roll Call: Matejek, Messler, Pacifico, Pater.

The following resolution was introduced by Councilman Messler and seconded by Councilwoman Pater.

RESOLUTION 71-2022

WHEREAS, the Construction Official Jerry Eger requested the following refund; and

NOW, THEREFORE, BE IT RESOLVED that the Treasurer be authorized to issue the following refund:

<u>Applicant</u>	<u>Permit</u>	<u>Amount</u>
Dexta Hubbard 671 Andres Terrace Union, NJ 07083	Payment Error Fire/CCO	\$100.00

Roll Call: Matejek, Messler, Pacifico, Pater.

The following resolution was introduced by Councilwoman Pater and seconded by Councilman Messler.

RESOLUTION 72-2022

WHEREAS, the Borough of Mountainside needs to refund monies to interested parties for overpayment of current year taxes.

NOW, THEREFORE, BE IT RESOLVED that the Treasurer be authorized to issue the following refund, for the following reason:

Duplicate payments Due to Banks

CoreLogic
Centralized Refunds
P. O. Box 9202
Coppell, TX 75019-9978

<u>Block</u>	<u>Lot</u>	<u>Amount</u>	
10.02	5	\$3,084.95	123 Mountainview Drive
15.05	21	\$2,373.00	1342 Hidden Circle
24.04	12.01	\$2,136.34	1000 Springfield Avenue

Roll Call: Matejek, Messler, Pacifico, Pater. Nays: 0.

The following resolution was introduced by Councilman Matejek and seconded by Councilwoman Pacifico.

RESOLUTION 73-2022

WHEREAS, in accordance with applicable provisions of the Public Contracts Law, the Borough advertised for Bids for Contract 2022-2 for "Retaining Wall Improvements at Public Works Facility"; and

WHEREAS, on April 28, 2022 the return date for the bids, two bids were received as follows:

<u>Bidders:</u>	<u>Base Bid</u>	<u>Alt. #1</u>	<u>Alt. #2</u>	<u>Alt. #3</u>	<u>Alt. #4</u>	<u>Alt. #5</u>
Denbar Const.	\$ 80,602	\$15,280	\$ 44,400	\$ 8,000	\$ 18,200	\$5,000
Tekcon Const.	\$203,600	\$39,310	\$181,200	\$17,400	\$136,200	\$5,000

WHEREAS, the Borough Engineer recommends awarding the Base Bid, Alternates #1, #2, #3, #4 and #5; and

WHEREAS, the lowest bidder is Denbar Construction Inc., and the Borough Engineer has recommended that Contract 2022-2 be awarded to Denbar Construction Inc., 625 B North Michigan Ave, Kenilworth, NJ 07033.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the contract for Retaining Wall Improvements at Public Works Facility be awarded to Denbar Construction Inc., 625 B North Michigan Ave, Kenilworth, NJ in the amount of \$171,482.00.

Roll Call: Matejek, Messler, Pacifico, Pater. Nays: 0.

Resolution 74-2022 was tabled.

The following resolution was introduced by Councilwoman Pacifico and seconded by Councilwoman Pater.

RESOLUTION 75-2022

Approval to submit a grant application and execute a grant contract with the New Jersey Department of Transportation for the 2022 Highway Safety Fund Project

2022 HIGHWAY SAFETY FUND PROJECT

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Mountainside formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor, Council and Police Chief are hereby authorized to submit an electronic grant application identified as HSF-2022-Mountainside Borough-00026 to the New Jersey Department of Transportation on behalf of the Borough of Mountainside.

BE IT FURTHER SOLVED that the Mayor, Council and Police Chief are hereby authorized to sign the grant agreement on behalf of the Borough of Mountainside and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

Roll Call: Matejek, Messler, Pacifico, Pater. Nays: 0.

The following resolution was introduced by Councilman Messler and seconded by Councilwoman Pacifico.

RESOLUTION 76-2022

WHEREAS, the Mayor and Council of the Borough of Mountainside hereby acknowledges the requirement of additional preliminary costs to determine the scope and cost of a proposed undertaking. The purpose of these additional preliminary costs are the engineering, appraisal and related costs to establish the feasibility of the acquisition of Levi Cory Park and that the amount to be charged is for the purpose for which bonds may be issued under Chapter 2 of Title 40A.

NOW, THEREFORE, BE IT RESOLVED that the amount appropriated for additional preliminary costs shall not exceed \$20,000 and the Chief Financial Officer is authorized to set up a "Reserve for Preliminary Expenses" out of the Capital Improvement Fund of the General Capital Fund.

Roll Call: Matejek, Messler, Pacifico, Pater. Nays: 0.

The following resolution was introduced by Councilman Matejek and seconded by Councilman Messler.

RESOLUTION 77-2022

WHEREAS, in accordance with Chapter 72, P.L. 1994, the Borough of Mountainside has the authority to prepare and issue estimated tax bills; and

WHEREAS, in order for the Borough of Mountainside to meet our financial obligations, maintain the tax collection rate, provide uniformity for tax payments and save the unnecessary cost of interest expenses on borrowing it would be in our best interest to do so; and

WHEREAS, the Tax Collector and the Chief Financial Officer have reviewed and computed an estimated levy in accordance with N.J.S.A. 54:4-66.3.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside on this 17th day of May, 2022, as follows:

1. The Borough of Mountainside Tax Collector is hereby authorized and directed to prepare and issue estimated bill for the Borough of Mountainside for the third quarter of 2022 taxes, in accordance with the provisions of N.J.S.A. 54:4-66.2 et seq. in the event a tax rate is not certified timely
2. The entire estimated tax levy for 2022 is hereby set at \$37,842,700.40.

Roll Call: Matejek, Messler, Pacifico, Pater. Nays: 0.

The following resolution was introduced by Councilman Messler and seconded by Councilwoman Pacifico.

RESOLUTION 78-2022

AUTHORIZING THE PURCHASE OF A 2022 CATERPILLAR 920 COMPACT WHEEL LOADER FOR THE DEPARTMENT OF PUBLIC WORKS UNDER THE SOURCEWELL COOPERATIVE PURCHASING AGREEMENT (CO-OP #032119-CAT) IN THE AMOUNT NOT TO EXCEED \$178,000

WHEREAS, pursuant to N.J.S.A 52:34-6.2(b)(3), the Governing Body of the Borough of Mountainside has authorized the use of Sourcewell Co-Op, to contract with various vendors for goods and services; and

WHEREAS, N.J.S.A. 52:34-6.2(b)(3) permits the award of a contract without the necessity of competitive bidding; and

WHEREAS, the Department of Public Works is in need of a 2022 Caterpillar 920 Compact Wheel Loader; and

WHEREAS, Foley Inc. is an authorized vendor under Sourcewell Co-Op #032119-CAT; and

WHEREAS, the Director of Public Works recommends award of this contract to Foley Inc. in the amount not to exceed \$178,000; and

WHEREAS, the Chief Financial Officer has certified funds in the amount of \$178,000.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside, that a contract for the purchase of a 2022 Caterpillar 920 Compact Front Loader is hereby awarded to Foley Inc., 855 Centennial Avenue, Piscataway, NJ under Sourcewell Co-Op #032119-CAT at a cost not to exceed \$178,000.

Roll Call: Matejek, Messler, Pacifico, Pater. Nays: 0.

The following resolution was introduced by Councilwoman Pacifico and seconded by Councilman Matejek.

RESOLUTION 79-2022

WHEREAS, Sergeant Richard Latargia is an employee the Borough of Mountainside Police Department; and

WHEREAS, Sergeant Latargia has had disciplinary charges preferred against him by the Chief of Police; and

WHEREAS, Sergeant Latargia has requested a local hearing on the charges preferred, in accordance with N.J.S.A. 40A:14-147; and

WHEREAS, under N.J.S.A. 40A:14-118 the Police Committee serves as the appropriate authority of the Mountainside Police Department; and

WHEREAS, N.J.S.A. 40A:14-147 and N.J.S.A. 40A:14-148 provide for appropriate authorities to act as hearing officers to hear and decide disciplinary charges brought against members of a police department; and

WHEREAS, the Police Committee has determined it appropriate to delegate its authority to hear and decide the charges to a third-party for the purposes stated herein; and

WHEREAS, the Borough of Mountainside has reviewed the background of Robert Verry, Retired Chief of Police to provide this service and has determined that hiring Chief Verry is in the best interests of the Borough;

NOW THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Mountainside, as follows:

1. The Borough hereby appoints retired Police Chief Robert Verry, whose address is P.O. Box 47, South Bound Brook, New Jersey, 08880, as hearing officer to preside over the disciplinary hearing regarding Sergeant Latargia, and who shall review evidence and make a recommendation in writing at the conclusion of the hearing as to whether the charges are sustained and what penalty, if any, should be imposed by the Committee.
2. Chief Verry shall be compensated at the rate of \$150.00 per hour, plus expenses, for the conduct of the hearing and time expended related thereto.

This Resolution shall be effective immediately.

Roll Call: Matejek, Messler, Pacifico, Pater. Nays: 0.

MOTION:

The following motion was unanimously approved:

1. Authorization to approve Sangram Sandha to join the Junior Firemen's Auxiliary Program

BILLS & CLAIMS:

The following resolution was introduced by Councilman Matejek and seconded by Councilwoman Pacifico:

BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the following bills of the persons named and for the amounts stated below, having been duly audited and found to be correct this 17th day of May 2022, the same be paid after Council's review, if and when funds are available and that the Mayor, Council President, Administrator and Treasurer are hereby authorized and directed to sign and deliver warrants for same in the amount of \$227,220.15 (Copy of bill list attached).

Roll Call: Matejek, Messler, Pacifico, Pater. Nays: 0

COUNCIL COMMENTS:

Councilman Messler announced the electronic recycling event.

Mayor Mirabelli mentioned upcoming events.

AUDIENCE PARTICIPATION: None

The following resolution was introduced by Councilman Messler and seconded by Councilman Matejek.

WHEREAS, the Open Public Meetings Act of the State of New Jersey permits the public to be excluded from certain matters to be discussed by the Governing Body; and

WHEREAS, the Mayor and Council desire to discuss personnel, contracts and litigation which are matters where the exclusion of the public is permitted; and

WHEREAS, public disclosure of the results of this discussion will be made as soon as the matters discussed have been resolved by the Governing Body of the Borough of Mountainside;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the aforesaid matters shall be discussed in closed session upon adoption of this resolution.

Meeting adjourned to closed session at 8:11 P.M.

The meeting was recalled to public session.

Upon a motion by Councilman Matejek and a second by Councilwoman Pacifico, the meeting was unanimously adjourned at 8:28 P.M.

Martha Lopez, RMC
Borough Clerk